

# Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

ETA 3054.2014

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## **Sales to residents of states or possessions of the US, and territories or provinces of Canada, that do not impose a tax of at least three percent**

RCW 82.08.0273 provides an exemption from the retail sales tax to certain nonresidents of Washington for purchases of tangible personal property, digital goods, and digital codes, *for use outside this state*. This statutory exemption is available only to residents of states other than Washington, United States possessions, or Canadian territories or provinces that do not impose or have imposed on their behalf, a generally applicable retail sales tax, use tax, value added tax, gross receipts tax on retailing activities, or similar generally applicable tax of three percent or more.

Effective June 12, 2014, the legislature amended RCW 82.08.0273 to specifically exclude sales of marijuana from the exemption (Chapter 140, Laws of 2014 (SB 6505)). Marijuana is any product with a THC concentration greater than .03 percent.

The statute specifically provides that sellers are not required to make tax-exempt sales to nonresidents. However, sellers who choose to make tax-exempt sales must meet the requirements provided below under "Instructions to Sellers."

### ***Eligible nonresidents of Washington***

As of July 1, 2011, only residents of the following qualify for this exemption:

<b>States</b>	<b>U.S. Possessions</b>	<b>Canada Provinces/Territories</b>
Alaska	American Samoa	Alberta
Colorado		Northwest Territories
Delaware		Nunavut
Montana		Yukon Territory
New Hampshire		
Oregon		

To request this document in an alternate format, visit <http://dor.wa.gov> and click on "contact us" or call 1-800-647-7706. Teletype (TTY) users may use the Washington Relay Service by calling 711.

General tax information is available on our website at [dor.wa.gov](http://dor.wa.gov).

Questions? Complete the online form at [dor.wa.gov/communications](http://dor.wa.gov/communications) or call 800-647-7706. If you want a binding ruling from the Department, complete the form at [dor.wa.gov/rulings](http://dor.wa.gov/rulings).

### ***Eligible and ineligible sales***

The law provides exemption from the tax only with respect to:

1. Sales of tangible personal property, digital goods, and digital codes,
2. For use outside Washington,
3. To persons who can satisfactorily establish nonresident status.

Thus, the exemption does ***not*** apply with respect to charges for services that are included within the definition of the term "sale at retail." This includes, but is not limited to, services such as:

- Lodging at hotels or motels.
- Repair services.
- Laundry or dry cleaning services.
- Automobile towing or parking.
- Amusement and recreational activities such as golf, bowling, and charter fishing.
- Personal services such as tanning, tattooing, and dating services.
- Abstract, title insurance, or escrow services.

The exemption also does ***not*** apply to sales of articles substantially used or consumed within Washington. This includes, but is not limited to, sales of:

- Meals or refreshments prepared for immediate consumption.
- Articles to persons in the military stationed within Washington.
- Articles to nonresident students attending schools in this state.
- Articles to any other nonresident temporarily residing in Washington.

To receive this exemption, the purchaser must present evidence of the purchaser's place of residence to the seller at the time of purchase as provided below.

### ***Instructions to sellers***

Sellers making exempt sales to eligible nonresidents must:

1. Examine one piece of identification that establishes proof of nonresidency. The identification must be a valid driver's license issued by the jurisdiction in which the out-of-state residency is claimed or a valid identification card issued by the out-of-state jurisdiction. The identification must (A) bear the photograph of the holder, (B) show the holder's residential address, (C) identify the holder's name, and (D) be issued for the purpose of establishing residency.
2. Maintain a record of the type of documentation accepted as establishing nonresidency in (1) immediately above, including identification numbers, expiration dates, the purchaser's name, and the purchaser's state of residency.
3. Record the documentation accepted as establishing nonresidency on the invoice or other written evidence of sale and retain the information or maintain a legible photocopy of the documentation establishing nonresidency as part of the seller's accounting records for the

statutory period of five years (refer to RCW 82.32.070). In the case of a seller making cash sales without issuing invoices (for example, retail hardware stores) and maintaining a log, such a log must identify the date and amount of sale, and the information described in (2) immediately above or in the case of corporate nonresidents the corporate nonresident permit number.<sup>4</sup> Presume that the item being sold will be used in Washington and is subject to retail sales tax if the purchaser requests the seller to deliver the merchandise to a Washington address. This presumption may be overcome if the purchaser gives the seller a signed written statement explaining the reason for delivery to a Washington residence and a specific statement indicating the item will not be used in Washington.

5. In lieu of furnishing proof of a purchaser's nonresident status as described in (1) above, a seller may accept from the purchaser a properly completed uniform exemption certificate approved by the streamlined sales and use tax agreement governing board. The certificate must include the purchaser's driver's license number or other state-issued identification number and the state of issuance; or the seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement. The "Buyers' Retail Sales Tax Exemption Certificate" can be found on Department of Revenue's web site at [DOR.WA.GOV](http://DOR.WA.GOV).

When making sales to nonresident corporations the seller must examine the corporate nonresident permit (see "Corporate nonresident permits," below) issued by the Department to verify that it is valid during the period of the sale and that it is issued to the purchaser. In lieu of requirements (1) and (2) above, the seller must record the permit number and retain that information in accordance with the options outlined in (3) immediately above as part of the seller's accounting records for the statutory period of five years (refer to RCW 82.32.070). The seller may also accept from the nonresident corporation a properly completed uniform exemption certificate approved by the streamlined sales and use tax agreement governing board. The certificate must include the nonresident corporation's nonresident permit number; or the seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement.

It is important that sellers follow these instructions. RCW 82.08.0273 provides that a seller who makes sales, without collecting retail sales tax, and who fails to maintain the records of sales to nonresidents as provided above is personally liable for the tax.

The law also contains specific retail sales tax exemptions for sales of certain types of property to nonresidents. These include sales of motor vehicles and trailers (RCW 82.08.0264 and WAC 458-20-177), watercraft (RCW 82.08.0266 and WAC 458-20-238), and farm machinery or implements (RCW 82.08.0268 and WAC 458-20-239). The conditions and requirements for exemption with respect to these sales remain unchanged.

When completing the excise tax return, persons making exempt sales to qualifying nonresidents must include the amount of these sales in the gross amount reported in column 1 on the lines for both retailing B&O tax (Code 02) and retail sales tax (Code 01). The amount of the exempt sales is deducted in column 2 on the retail sales tax line (Code 01). The amount of the deduction must be identified on the deduction detail page under "Retail Sales Tax" as "Qualified Nonresident Sales" (I.D.0123). Please note that there is no comparable deduction on the Retailing B&O tax line (Code 02) because the law does not provide a comparable B&O tax deduction.

***Corporate nonresident permits***

The Department of Revenue issues "corporate nonresident permits" upon request to qualifying corporations. A nonresident corporation must be incorporated in one of the states, possessions, or provinces of Canada identified above to qualify for a permit.

Nonresident corporations wishing to obtain a corporate nonresident permit should contact the Department by calling (360) 902-7151 or by writing:

Taxpayer Account Administration  
Post Office Box 47476  
Olympia, Washington 98504-7476

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